

# Notice of Allowability

Application No.

10/672,816

Examiner

Binh X. Tran

Applicant(s)

GILTON, TERRY L.

Art Unit

1765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8-11-2005.
2. ☒ The allowed claim(s) is/are 55-84.
3. ☒ The drawings filed on 26 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 9/26/2003; 2/4/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

NADINE G. NORTON  
SUPERVISORY PATENT EXAMINER

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Species B in the reply filed on 8-11-2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). The applicants indicated that claims 1-60, 62-77, 79-84 read on species B (emphasis added). Claims "1-60" appears to be a typo error for claims "55-64" because the applicants cancel claims 1-54 in the amendment filed on 9-26-2003.
2. Claim 1 is generic and allowable (See discussion below). Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 61, 78 are directed to the species A is no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.
3. In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

***Specification***

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

**EXAMINER'S AMENDMENT**

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

6. The application has been amended as follows:

In the Specification

In line 1-2 of the "Related Patent Data" section, after the phrase "This patent resulted from a continuation application of US Patent Application Serial No. 09/798,806, filed March 2, 2001," please insert --now US Patent 6,861,007--.

***Allowable Subject Matter***

7. Claims 55-84 are allowed.

8. The following is an examiner's statement of reasons for allowance: The cited prior arts fail to disclose either one of the following steps in conjunction with all other limitations in the claim: exposing the first, second and third materials to a solution comprising ozone, water and a surfactant effective to form an oxide layer on the first hydrophobic material within the opening; or exposing the poly-silicon-containing layer,

the silicon oxide containing layer and the silicon-containing region to a solution comprising ozone, water and a surfactant effective to form a silicon oxide-comprising layer on the silicon-containing region with the opening. The closes prior art (Suguro et al. US 6,617,226) teaches to treat the first layer (silicon layer 23), second layer (silicon oxide layer 25) to a solution comprising ozone and water to form an oxide layer within the opening (col. 14 lines 30-36). Suguro also discloses to completely remove the third layer (i.e. polysilicon layer 26) during the opening (31) forming step before exposing the aqueous ozone solution (See Fig 4G). Since the third layer (26) is completely removed before the exposing step, it is not possible to expose the third layer to ozone solution. Therefore, Suguro teaches away from exposing the third layer to the ozone solution.

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh X. Tran whose telephone number is (571) 272-1469. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Binh X. Tran

**NADINE G. NORTON**  
**SUPERVISORY PATENT EXAMINER**

A handwritten signature in black ink, appearing to be 'N. Norton', written below the printed name and title.